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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/801,447	03/12/2004	Darin Barri	MAT 313	2005
23581 7590 03/17/2008 KOLISCH HARTWELL, P.C. 520 SW YAMHILL STREET, Suite 200 PORTLAND, OR 97204				
EXAMINER				
CHEUNG, VICTOR				
ART UNIT		PAPER NUMBER		
3714				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/801,447

**Applicant(s)**

BARRI, DARIN

**Examiner**

VICTOR CHEUNG

**Art Unit**

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**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 December 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3 and 27-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3 and 27-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SI/88)  
Paper No(s)/Mail Date 07/26/2007.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. This Office Action is in response to the reply filed 12/21/2007.

Claims 1, 3, and 27-39 are pending.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 3, 27-28, and 30-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kinzer et al. (US Patent No. 7,223,170).

Re Claim 1: Kinzer et al. disclose an interactive DVD gaming system comprising a DVD for use with a standard DVD player generally having sixteen general parameter registers (Col. 6, Lines 6-62), a controller for use with the DVD player (Fig. 1, Ref. No. 108), the DVD player being configured to accept game input from the controller (Col. 7, Lines 27-34) and to hold one or more game variables, each game variable having a value (Col. 8, Lines 25-32), wherein the controller includes a communication subsystem configured to provide user-provided game input to the DVD player through first and second user-operated control buttons causing the communication subsystem to provide first and second distinct game inputs, the DVD including data including at

least one sequence of audiovisual content and one or more game scripts operable to define a game variable, associate a value with a game a defined game variable, change a value of the game variable as a function of both the accepted game input from the controller and the value of the game variable, and control game flow based on the value of one or more game variables (Col. 7, Lines 27-34; Col. 15, Lines 32-53; Col. 21, Lines 29-52). Generally, Kinzer et al. disclose a game using a standard DVD player including a plurality of clips (audio, video, text, etc.), wherein a user controlled remote control with a plurality of buttons is used to effect gameplay elements including navigating through menus, navigating through clip playback, and initializing the clip tables that control the game flow of overall clip playback. Navigation and game flow is accomplished by defining the current state of the game and using the input to decide the next step.

Regarding the limitation of the DVD player having a maximum of 1 kilobyte of onboard memory, while Kinzer et al. disclose that the invention is limited to using a conventional DVD player having the memory constraints present in conventional DVD players, they do not specifically disclose the size of the general parameter register memories (Col. 6, Lines 47-62). However, as evidenced by the Applicant's specification, conventional DVD players generally have eight, sixteen, or twenty-four registers, equating to less than one kilobyte of memory (Specification Page 8). Therefore, as evidenced by the Applicant's specification, Kinzer et al. disclose a maximum of 1 kilobyte of onboard memory.

Re Claim 3: Kinzer et al. disclose the DVD is formatted according to the DVD-Video Standard (Col. 6, Lines 6-15).

Re Claims 27-28, 30-31, 39: Kinzer et al. disclose game scripts operable to associate a first value with a defined game variable, and change the first value to either a second value upon accepting the first game input from the controller or a third value upon accepting the second game input from the controller. Kinzer et al. disclose a method of selecting and displaying clips (audio, video, text, etc.), the method including accepting inputs that change values of game variables including values of the clip table, that guide the flow of the game. Such values include clip locations and next-clip locations such that the user can initialize and navigate through the desired clips as part of the game flow through game inputs. (Col. 7, Lines 27-34; Col. 15, Lines 32-53; Col. 18, Line 42-Col. 19, Line 31; Col. 21, Lines 29-52).

Re Claim 32: Kinzer et al. disclose the one or more game scripts operable to distinguish between first and second game inputs (Col. 7, Lines 29-34). Note that nearly all communications systems must be operable to distinguish between inputs if a plurality of different inputs are present.

Re Claims 33-35, 37: As discussed above in regards to claim 1, Applicant has disclosed that conventional DVD players, which are used in Kinzer et al., include limitations such as having no more than eight, sixteen, or twenty-four general and system parameter register memories, wherein a sixteen general parameter register memory includes eighty bytes of memory (Specification Page 8).

Re Claim 36: Kinzer et al. disclose the register memories as discussed in claim 1 above. Inherent of such memories, the register memories include segments of bits and bytes.

Regarding the limitation “to hold more than one variable,” the language used to describe the invention is an intended use of the invention. The Applicant’s method of using the plurality of

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segments found in the register memories to hold more than one variable does not result in a structural difference between the claimed invention and the prior art that would render it patentably distinguishable.

Re Claim 38: Kinzer et al. disclose an initialization game script operable to format the memory storage means of the DVD player to designate memory to hold values for each variable defined and to associate an initial value to each variable defined (Col. 18, Lines 42-63).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kinzer et al. (US Patent No. 7,223,170).

Re Claim 29: Kinzer et al. disclose the use of a wireless remote control (Fig. 1, Ref. No. 108) to communicate with the DVD player.

However, Kinzer et al. do not specifically disclose the remote control including a light emitting diode configured to transmit wireless signals.

Examiner takes OFFICIAL NOTICE that the use of light emitting diodes, often in the form of infrared light emitting diodes, in remote controls is old and well known in the art.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide an efficient wireless input method to the DVD player.

### ***Response to Arguments***

6. Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to VICTOR CHEUNG whose telephone number is (571)270-1349. The examiner can normally be reached on Mon-Fri, 9-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/V. C./

Examiner, Art Unit 3714

/Ronald Laneau/

Supervisory Patent Examiner, Art Unit 3714

03/07/08